IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 421 OF 2005

Gajanan K.Gawane. ... Appellant.

Versus.

The Municipal Corporation of
Greater Bombay. ... Respondents.

Shri A.M.Saraogi with Shri Ajay Mishra for the Appellant.

Ms.Geeta Joglekar for the Respondent-BMC.

CORAM : ABHAY S. OKA, J.

DATED : 8th April, 2005.

P.C.:

1. Heard the learned Counsel appearing for the parties.

2. Admit. The Respondent waives service. Taken up for hearing forthwith.

3. The affidavit-cum-undertkaing of the Appellant is taken on record and marked "X" for identification. The undertakings contained in the said affidavit are accepted.

4. In view of the said affidavit-cum-undertaking, the following order is passed:

(i) L.C.Suit No.1271 of 2005 is dismissed as withdrawn with no order as to costs.

(ii) If the Appellant makes an application in accordance with the Rules for regularisation of the suit structure within a period of four weeks from today to the concerned authority of the Respondent-Corporation, the same shall be disposed of by the concerned authority within a period of 8 weeks from the date of receipt of the application. The concerned authority of the Respondent will communicate the decision on the application for regularisation to the Appellant within a period of one week from the date of passing of the order.

(iii) In case the Application as aforesaid is made by the Appellant within the period of four weeks from today, the Respondent-Corporation will not take any action of demolition in respect of the suit structure for a period of 17 weeks from today. If the Application is not made within the period of four weeks, it will be open for the Respondents to proceed with the action of demolition.

(iv) All contentions of the parties in so far as the application for regularisation is concerned are kept open.

(v) The trial Court will pass a formal order on the suit on production of an authenticated copy of this order.

(vi) The Appeal is disposed of in the above terms with no order as to costs.

(vii) The parties and the concerned authority to act on an authenticated copy of this order.

Judge.